

From: ["Garcia, Bert" </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE:GROUP \(FYDIBOHF23SPDLT\)/CN=RECIPIENTS/CN=FE9985E7060941D1920961C60EBFC668-GARCIA,BERT>](mailto:Garcia.Bert@epa.gov)

To: [Best-Wong](#)
[Benita:](#)

CC: ["Karen Hamilton" <Hamilton.Karen@epa.gov>](mailto:Hamilton.Karen@epa.gov)

Date: 3/20/2015 1:44:31 PM

Subject: Climax mine / McNulty Gulch

Attachments: [McNulty Gulch \(Climax\) JD cover letter.eml](#)
[FW ELG and wastewater exemption at Climax mine - alert.eml](#)
[FW Ore Mining and Dressing effluent guidelines.eml](#)
[FW Response from Colorado AG, via CDPHE re McNulty gulch.eml](#)

Benita,

Here is a set of emails pertaining to the Climax Mine JD. The mining company plans to expand a waste rock dump and believes the waters that will be impacted fall under the waste treatment system exclusion. (b) (5) (DP)

The JD was issued by USACE March 6, concluding these are WOTUS. Both our January 29 letter and USACE's JD March 6 cover letter are attached.

We've been working these questions with Gary Hudiburgh, Donna Downing, and Ronald Jordan. (b) (5) (DP)

(b) (5) (DP)

Let us know if there's more you'd like to talk about on this. Thanks.

Bert

From: ["Hamilton, Karen" <Karen>](#)
To: [Garcia](#)
[Bert](#)
CC:
Date: 3/20/2015 12:37:21 PM
Subject: McNulty Gulch (Climax) JD cover letter
Attachments: [\[Untitled\].pdf](#)

Of course we were also engaged with OGC (Alexis Wade), who crafted the letter I sent on 1/29/2015. Erin Flannery-Smith was also involved from the 402 angle.

From: ["Hamilton, Karen" <Karen>](#)
To: [Garcia](#)
[Bert](#)
CC:
Date: 3/20/2015 12:30:17 PM
Subject: FW: ELG and wastewater exemption at Climax mine - alert
Attachments: [Climax JD review letter to Corps 1 2015.pdf](#)



From: Hamilton, Karen
Sent: Friday, March 06, 2015 11:19 AM
To: Hudiburgh, Gary; Downing, Donna; Jordan, Ronald
Subject: ELG and wastewater exemption at Climax mine - alert

I am notifying you that Climax mine may contact OW management about our evaluation of their arguments that the wetlands adjacent to their ditches carrying contaminated water are exempt from 404 because they are part of the waste treatment system. The letter is attached.

We expect the JD today so that should render the call to EPA moot. Climax may call anyway so you may wish to notify your management. Until I see the JD, I cannot predict what the Corps' JD will indicate. I will keep you informed regarding the JD findings.

From: ["Hamilton, Karen" <Karen>](#)
To: [Garcia](#)
[Bert](#)
CC:
Date: 3/20/2015 12:25:15 PM
Subject: FW: Ore Mining and Dressing effluent guidelines

From: Perkins, Erin
Sent: Tuesday, March 03, 2015 8:45 AM
To: Garcia, Bert; Hamilton, Karen
Subject: FW: Ore Mining and Dressing effluent guidelines

Hi – FYI below re. ELG and Climax mine. I’ve printed a copy for Joan.

From: Hudiburgh, Gary
Sent: Thursday, November 20, 2014 11:55 AM
To: Jordan, Ronald
Cc: Perkins, Erin; Flannery-Keith, Erin
Subject: RE: Ore Mining and Dressing effluent guidelines

Thank you.

From: Jordan, Ronald
Sent: Thursday, November 20, 2014 1:12 PM
To: Hudiburgh, Gary
Subject: Ore Mining and Dressing effluent guidelines

Gary,

You recently contacted me about the effluent limitations guidelines for the ore mining and dressing point source category. Specifically, you inquired about the treatment system at a facility described in the development document on pages 285-287 (“Molybdenum Mine/Mill 6102”).

I reviewed the development document for the rule promulgated in 1982 (i.e., the document cited by the company that owns the mill) and the Federal Register notices for the proposed and final 1982 rule. **Exemption 5 - Deliberative**

Exemption 5 - Deliberative

Please let me know if you have further questions.

Ron

Ron Jordan
USEPA Office of Water
Engineering and Analysis Division
Washington DC
(202) 566-1003

From: ["Hamilton, Karen" <Karen>](#)
To: [Garcia](#)
[Bert](#)
CC:
Date: 3/20/2015 12:26:57 PM
Subject: FW: Response from Colorado AG, via CDPHE re: McNulty gulch

From: Garcia, Bert
Sent: Monday, March 16, 2015 3:09 PM
To: Hamilton, Karen; Card, Joan; Perkins, Erin; Ott, Toney
Subject: Response from Colorado AG, via CDPHE re: McNulty gulch

FYI.

Bert Garcia
Director, Ecosystems Protection Program
EPA Region 8

From: Kieler - CDPHE, Janet [<mailto:janet.kieler@state.co.us>]
Sent: Friday, March 13, 2015 7:43 AM
To: Garcia, Bert
Cc: Dick Parachini - CDPHE; Annette Quill
Subject: mcnulty gulch

Hi Bert.

Following receipt of your letter the Attorney General's Office conducted a review of the documents provided by Climax in October 2014, focusing on Climax's 2013 CDPS Permit and associated Fact Sheet. Upon review, the AG's Office has concluded that there is nothing in the 2013 CDPS Permit or associated Fact Sheet that contradicts the Corps/EPA's recent "jurisdictional" determination for McNulty Gulch.

Janet
Janet Kieler
Permits Section Manager
Clean Water Program

P 303.692.3599
4300 Cherry Creek Drive South, Denver, CO 80246
janet.kieler@state.co.us | www.coloradowaterpermits.com